

IN THE DRAWINGS:

Please substitute the enclosed sheet of drawings showing Figs. 1 to 3 for the previously submitted sheet of drawings showing the same figures.

REMARKS:

The Office action mailed July 20, 2007 has been received and carefully considered. Reconsideration of the application as amended hereby is respectfully requested.

Withdrawal of the previous rejection of the claims based on Haider is noted with appreciation.

Claims 8 and 9 were objected to for being dependent upon themselves. This was previously addressed in an amendment submitted on August 11, 2006. However, there is no indication that that amendment was entered and the objection is continued in the present action. Consequently, Claims 8 and 9 are hereby amended to correct this numbering problem.

The specification and drawings were objected to for using the reference numeral 50 on both tools 9 and 10. The reference numeral 50 was correctly used with respect to tool 9 and the reference numeral 109 is proper for the same structure on tool 10. The reference numeral 109 appears in the drawings (Fig. 3, for example) for the guide and advancement structure of tool 10.

Consequently, it is believed that the best method of correction is to remove the reference numeral 50 from Fig. 3. A new sheet of corrected drawings showing Figs. 1 to 3 is submitted herewith. A copy is also submitted with the changes noted in red. No new matter is submitted on the corrected drawings.

Claim 4 was rejected as indefinite and has hereby been

Claim 4 was rejected as indefinite and has hereby been amended in such a manner such that the claim is now urged to be definite. In particular, both guide and advancement structure have helical pathways that mate and align to allow the mating structure of the closure top to be guided and fed into the bone screw from the guide tool.

Claims 1 to 5 were rejected as anticipated by Choi (US2001/0023350). It is indicated in the action that Choi includes end guide tools (Fig. 9, reference number 30). It is urged that the device indicated by the reference numeral 30 in Choi does not at all anticipate the tool called for in Claim 1 of applicant's Claim 1.

The cap of Choi is not removably joinable with the screw, but rather is locked to the screw by the closure, such that the cap cannot be removed from the bone screw subsequent to placement of the closure in the bone screw. The cap of Choi lacks an upwardly extending longitudinal guide channel for guiding the rod from a position spaced from the bone screw into the bone screw. In Choi the channel is not longitudinal and is only sufficiently large to hold the rod. The rod cannot move further along or be guided by the channel. There is no teaching of transferring the closure from the cap of Choi to the bone screw by rotating the cap along the helically wound path from the cap to the screw, rather the cap remains permanently secured in place by the

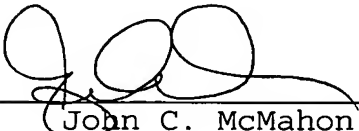
closure and with the closure permanently in the cap. As all these elements are called for in Claim 1, it is urged that Choi fails to anticipate Claim 1 as well as claims 2 to 5 which have similar limitations.

Claims 1 to 9 were rejected as obvious in view of Choi. As noted with respect to Claim 1 Choi neither teaches the structure called for in Claim 1 and the remaining claims of the application nor does Choi in any way make obvious the claimed subject matter. Choi is intended to be a cap, especially to prevent splaying and there is no suggestion to use the teachings of Choi to produce a removable tool that guides a rod along a channel from a position spaced from the bone screw into the bone screw. In fact Choi teaches the opposite with respect to having a tool that guides the closure to the bone screw and is then removed, since the cap of Choi is permanently locked in place around the closure after assembly. Choi also fails to suggest or in any way teach transferring the closure from the tool to the bone screw, since the closure in Choi never leaves the cap, but is permanently secured to it.

Therefore, it is urged that Claims 1 to 9 are allowable over Choi and notice to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned by telephone, if prosecution of this application can be expedited thereby.

Respectfully Submitted,


  
\_\_\_\_\_  
John C. McMahon  
Reg. No. 29,415  
Attorney

JCM:mcm  
PO Box 30069  
Kansas City, Missouri  
64112  
Phone: (816) 531-3470

I hereby certify that this  
correspondence is being deposited  
with the United States Postal  
Service as first class mail in an  
envelope addressed to:  
Mail Stop Amendment  
Commissioner For Patents,  
P.O. Box 1450,  
Alexandria, VA 22313-1450 on  
December 20, 2007.

Roger P. Jackson  
(Applicant)

By

  
December 20, 2007

\_\_\_\_\_  
(Date of Signature)

